



General Assembly

**Substitute Bill No. 1215**

January Session, 2005

\* SB01215ENV\_\_032905\_\_ \*

**AN ACT CONCERNING THE SPECIAL CONTAMINATED PROPERTY  
REMEDiation AND INSURANCE FUND.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-133u of the general statutes is repealed and  
2 the following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Environmental Protection may use any  
4 funds in the Special Contaminated Property Remediation and  
5 Insurance Fund established in section 22a-133t other than any funds  
6 which are necessary to carry out any other responsibility of said  
7 commissioner under this section, for (1) removal or mitigation of a  
8 spill, as defined in section 22a-452c, upon or into land or waters of the  
9 state if the owner of the property associated with such spill is found to  
10 be an innocent landowner, as defined in section 22a-452d, and for  
11 administrative costs related to such removal or mitigation or (2)  
12 administrative costs related to the remediation of a property for which  
13 a loan was made under subsection (b) of this section provided not  
14 more than five thousand dollars shall be disbursed from the fund for  
15 such purpose. Said commissioner may use any funds received in  
16 connection with the issuance of a covenant not to sue or a settlement  
17 by said commissioner of a claim related to contaminated real property,  
18 or any funds received pursuant to section 22a-16a, for removal or  
19 mitigation of a spill, as defined in section 22a-452c, for which the

20 owner of the property associated with such spill would be liable except  
21 for a covenant not to sue entered into pursuant to sections 22a-133aa or  
22 22a-133bb and for administrative costs related to such removal or  
23 mitigation. Said commissioner may use any funds received pursuant to  
24 section 22a-134e, as amended by this act, and subsection (c) of section  
25 22a-133aa, for expenses related to the administration of sections  
26 22a-134 to 22a-134e, inclusive, as amended by this act, and for  
27 expenses related to administration of sections 22a-133x, 22a-133y,  
28 22a-133aa and 22a-133bb.

29 (b) The Commissioner of Economic and Community Development,  
30 [with the approval of the advisory board established in subsection (e)  
31 of this section,] may use any funds deposited into the Special  
32 Contaminated Property Remediation and Insurance Fund pursuant to  
33 [section 12-63f or] section 3 of public act 96-250\* for (1) loans to  
34 municipalities, individuals or firms for Phase II environmental site  
35 assessments, Phase III investigations of real property or for any costs of  
36 demolition, including related lead and asbestos removal or abatement  
37 costs or costs related to the remediation of environmental pollution,  
38 undertaken to prepare contaminated real property for development  
39 subsequent to any Phase III investigation, and (2) expenses related to  
40 administration of this subsection provided such expenses may not  
41 exceed one hundred twenty-five thousand dollars per year.

42 (c) Any person, firm, corporation or municipality which has  
43 received funds under subsection (b) of this section shall repay such  
44 funds to the Commissioner of Economic and Community  
45 Development, according to a schedule and terms which said  
46 commissioner deems appropriate. The principal amount of the loan  
47 shall be due at a time deemed appropriate by the commissioner as  
48 follows: (1) Upon the sale of the property or lease of the property, in  
49 whole or in part, which is the subject of such evaluation or demolition;  
50 (2) upon the sale or release of a municipality's liens on such property;  
51 or (3) upon the approval by the Commissioner of Environmental  
52 Protection of a final remedial action report submitted in accordance  
53 with section 22a-133y. The Commissioner of Economic and

54 Community Development may require repayment of the loan  
55 amortized over a period of no more than five years from the sale of the  
56 property, sale of the lien or approval by the Commissioner of  
57 Environmental Protection of the final remedial action report. No  
58 repayment shall be required, other than interest for the period that the  
59 loan is outstanding, if completion of remediation of environmental  
60 pollution at or on the property, or the sale or lease of such property, is  
61 economically infeasible due to the cost of such remediation. The  
62 commissioner may require partial repayment of the loan only if partial  
63 repayment is economically feasible. Any funds received by said  
64 commissioner as repayment under this subsection shall be deposited  
65 into the Special Contaminated Property Remediation and Insurance  
66 Fund. The terms of any loan agreement entered into by said  
67 commissioner under said subsection may provide for the collection of  
68 interest on the loan which may vary according to whether the  
69 applicant is a municipality or a private entity and the duration of the  
70 repayment schedule for such loan provided the interest cost to the  
71 borrower provided for in such agreement shall not exceed the interest  
72 cost to the state on borrowings of like terms.

73 (d) The amount of any funds received under subsection (b) of this  
74 section by any entity other than a municipality shall be a lien against  
75 the real property for which the funds were disbursed. A lien pursuant  
76 to this section shall not be effective unless (1) a certificate of lien is filed  
77 in the land records of each town in which the real estate is located,  
78 describing the real estate, the amount of the lien, the name of the  
79 owner as grantor, and (2) the Commissioner of Economic and  
80 Community Development mails a copy of the certificate to such  
81 persons and to all other persons of record holding an interest in such  
82 real estate over which the commissioner's lien is entitled to priority.  
83 Any action for the foreclosure of such lien shall be brought by the  
84 Attorney General in the name of the state in the superior court for the  
85 judicial district in which the property subject to such lien is situated,  
86 or, if such property is located in two or more judicial districts, in the  
87 superior court for any one such judicial district, and the court may

88 limit the time for redemption or order the sale of such property or  
89 make such other or further decree as it judges equitable.

90 (e) (1) There is established a Special Contaminated Property  
91 Remediation and Insurance Fund Advisory Board to [review  
92 applications for loans from said fund under this section] advise and  
93 review, on a yearly basis, the progress of the fund. The board shall  
94 consist of one member representing a municipality, appointed by the  
95 speaker of the House of Representatives; one member representing a  
96 bank, appointed by the majority leader of the Senate; one member who  
97 has experience in the field of contaminated property remediation,  
98 appointed by the majority leader of the House of Representatives; one  
99 member representing a municipality, appointed by the president pro  
100 tempore of the Senate; one member representing a bank, appointed by  
101 the minority leader of the House of Representatives; one member who  
102 has experience in the field of contaminated property remediation,  
103 appointed by the Governor; and one member representing a  
104 municipality, appointed by the minority leader of the Senate. The  
105 board shall annually elect one of its members to serve as chairperson.

106 (2) The Commissioner of Economic and Community Development [,  
107 in consultation with said board] shall establish criteria for (A) making  
108 disbursements under subsection (b) of this section which criteria shall  
109 include, but not be limited to, anticipated commercial value of the  
110 property, potential tax revenue to the relevant municipality,  
111 environmental or public health risk posed by the spill, potential  
112 community or economic development benefit to the relevant  
113 municipality, the status of any loans previously made under said  
114 subsection to the municipality and potential for restoration of an  
115 abandoned property, and (B) cancelling loans related to a property at  
116 which the borrower of the loan elects not to proceed with remediation.  
117 Such criteria shall further set forth the procedure for applying for a  
118 loan from the fund and the procedure to be used for evaluation of such  
119 an application. In approving any loan under said subsection to any  
120 person, firm or corporation, the [board] Commissioner of Economic  
121 and Community Development may consider the loan applicant's credit

122 history and economic solvency, any plan of such applicant for business  
123 development, municipal support for the proposed use of the property  
124 and any existing indebtedness of such applicant to any entity. [Upon  
125 application for any such loan, the board shall make a recommendation  
126 to the Commissioner of Economic and Community Development  
127 regarding such loan. On or before February 1, 2003, and annually  
128 thereafter, said board and the Commissioner of Economic and  
129 Community Development shall submit a report to the joint standing  
130 committee of the General Assembly having cognizance of matters  
131 relating to the environment regarding the number of applications  
132 received, and the number and amounts of loans made in the preceding  
133 year, the names of the applicants, the time period between submission  
134 of application and the decision to grant or deny the loan, which  
135 applications were approved and which applications were denied and  
136 the reasons for denial. On or before February 1, 2003, the board shall  
137 recommend to the joint standing committee of the General Assembly  
138 whether the payments to the State Treasurer pursuant to section 12-63f  
139 are sufficient for the continued solvency of the Special Contaminated  
140 Property Remediation and Insurance Fund and whether such  
141 payments should continue.]

142 Sec. 2. Subsection (l) of section 22a-134e of the general statutes is  
143 repealed and the following is substituted in lieu thereof (*Effective from*  
144 *passage*):

145 (l) The fee specified in subsection (k) of this section shall be due in  
146 accordance with the following schedule: (1) Two thousand dollars  
147 shall be paid upon the filing of the notification required under section  
148 22a-134a if the cost of remediation is less than one hundred thousand  
149 dollars; (2) six thousand dollars shall be paid upon filing of the  
150 notification required under section 22a-134a if the cost of remediation  
151 is equal to or greater than one hundred thousand dollars; (3) the  
152 balance, if any, shall be paid within thirty days of receipt from the  
153 commissioner of written approval of a remedial action plan or within  
154 thirty days of the issuance of an order, consent agreement or stipulated  
155 judgment, whichever is earlier; (4) any remaining balance shall be paid

156 within thirty days after receipt of written notice from the  
 157 commissioner that it is due; (5) any refund, if applicable, will be paid  
 158 after receipt of a letter from the commissioner stating that no further  
 159 action is required or after receipt of a letter of compliance. After the  
 160 deposit of any appropriated funds, funds from the sale of bonds of the  
 161 state or any contribution pursuant to section [12-63f,] 22a-16a, 22a-133t  
 162 or 22a-133u, as amended by this act, or section 3 of public act 96-250\*  
 163 to the Special Contaminated Property Remediation and Insurance  
 164 Fund established under section 22a-133t, any amount received by the  
 165 commissioner pursuant to this section shall be deposited into said  
 166 fund.

167 Sec. 3. Section 12-63f of the general statutes is repealed. (*Effective*  
 168 *from passage*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-133u
Sec. 2	<i>from passage</i>	22a-134e(l)
Sec. 3	<i>from passage</i>	Repealer section

**ENV**      *Joint Favorable Subst.*